

**REMARKS*****Summary of the Response***

By the present response, claim 84 has been amended for the Examiner's consideration. Applicant submits that no new matter is added by the present amendment. More specifically, Applicant has amended claim 84 to recite features of previously presented claim 127 to more clearly define features of the present invention. Support for the amendment may be found, for example, at least in previously presented claim 127. Accordingly, upon entry of the amendment, claims 84 – 143 will be pending. Reconsideration of the rejected claims in view of the above amendment and following remarks is respectfully requested.

***Summary of the Office Action***

In the instant Office Action, the Examiner has rejected claims 84 - 126 and 135 - 143 over the art of record, and has allowed claims 127 - 134. By the present amendment and remarks, Applicant submits that the rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

***Allowable Subject Matter***

Applicant appreciates the Examiner's indication that claims 127 – 134 are allowed. Additionally, Applicant respectfully submits that all of the pending claims are allowable for the reasons set forth below.

***Traversal of Rejections Under 35 U.S.C. § 103(a)***

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness. See MPEP §2142. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.<sup>1</sup> Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

**1. Over KOGA in view of SAKAKIBARA**

Applicant traverses the rejection of claims 84, 85, 88, 89, 94 – 97, 101 – 111, 118 – 126 and 139 – 143 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,268,710 to Koga (hereinafter “KOGA”) in view of U.S. Patent No. 6,433,517 to Sakakibara (hereinafter “SAKAKIBARA”) and U.S. Patent No. 6,577,105 to Iwaizono (hereinafter “IWAIZONO”). The rejection is respectfully traversed.

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<sup>1</sup> While the KSR court rejected a rigid application of the teaching, suggestion, or motivation (“TSM”) test in an obviousness inquiry, the [Supreme] Court acknowledged the importance of identifying “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does” in an obviousness determination. *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

Independent Claim 84

The present invention relates to a portable electric tool set. Independent claim 84 recites, in pertinent part:

. . . wherein the battery comprises one of a rechargeable electrochemical lithium-ion or rechargeable electrochemical lithium polymer battery,

wherein at least one of the at least one electric or electronic module and the cutoff device are operable to prevent overcharging of the battery during a charging phase,

wherein the at least one of the at least one electric or electronic module and the cutoff device are operable to prevent over-discharging of the battery during operation of the tool,

wherein the at least one of the at least one electric or electronic module and the cutoff device are operable to protect the battery against excess current during a discharging phase, and

wherein the at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage recommended by a manufacturer of the battery, and

wherein the protecting against excess current protects the battery from premature aging or from overheating during a discharging of the battery during use of the tool and comprises:

the at least one of the at least one electric or electronic module and the cutoff device cutting off a discharging current in a case of at least one of a very substantial pulsed overload of a maximum discharging current allowed for the battery and an excess of a maximum temperature allowed for the battery; and

limiting the discharging current as a function of an energy consumed by the tool during a certain sliding time period.

In addressing previously presented claim 84, the Examiner asserts KOGA in view of SAKAKIBARA and IWAIZONO teaches or suggests each of the features of previously presented claim 84. While Applicant does not agree with the Examiner that the applied art under 35 U.S.C. §103(a) renders unpatentable the embodiments of the invention recited in at least previously presented claim 84, in an effort to advance prosecution, claim 84 has been amended to even more clearly define the features of the present invention. Further, Applicant expressly

reserves the right to refile the subject of independent claim 84 as presented prior to this amendment in one or more continuing applications.

Applicant respectfully submits that KOGA in view of SAKAKIBARA and IWAIZONO does not teach or suggest each of the features of currently amended claim 84. For example, Applicant submits KOGA in view of SAKAKIBARA and IWAIZONO at least does not teach or suggest the at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage, as the Examiner asserts. In addressing this feature of the presently claimed invention, the Examiner refers to column 10, lines 17 - 31 of IWAIZONO. Applicant has reproduced this passage below, which states (emphasis added):

When the main control means 1 detects the voltage across the terminals of the second FET 12 and finds it to be over a predetermined voltage corresponding to an excessively large discharging current, then the first and second FETS 11 and 12 are turned OFF to shut off the discharging current and protect the rechargeable battery 3 against damage due to excessively large discharging current. The rechargeable battery 3 will be exposed to an excessively large discharging current if a short-circuit occurs between the positive input/output terminal 4 and the negative input/output terminal 5, or at the device to which these are connected, but, even though its internal resistance is small (20 to 50 mΩ.), since the voltage at both terminals of the FET 12 rises in response to an excessively large discharging current, the over-current can be shut off in advance by detecting this voltage rise.

Thus, Applicant submits IWAIZONO teaches that when a voltage is detected that is over (or larger) than a predetermined voltage, then the first and second FETS 11 and 12 of the IWAIZONO device are turned OFF to shut off the discharging current. That is, IWAIZONO teaches detecting when a voltage reaches (or exceeds) a maximum voltage. In contrast, Applicant submits the presently claimed invention recites the opposite (i.e., detecting when a voltage reaches a minimum voltage). As such, Applicant submits IWAIZONO does not teach or

suggest the at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage, as recited in claim 84.

As such, Applicant submits that KOGA in view of SAKAKIBARA and IWAIZONO does not teach or suggest each of the features of the presently claimed invention.

Additionally, in an effort to further prosecution, Applicant has amended claim 84 to recite features of allowable claim 127. While noting that claim 127 was previously amended into independent form, Applicant has added what are believed to be allowable features of this claim into claim 84.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claim 84 and indicate that claim 84 is allowable over KOGA in view of SAKAKIBARA and IWAIZONO.

Dependent Claims 85, 88, 89, 94 - 97, 101 - 111, 118 - 126 and 139 - 143

Applicant respectfully submits that claims 85, 88, 89, 94 - 97, 101 - 111, 118 - 126 and 139 - 143 depend from allowable independent claim 84, and are allowable based upon the allowability of independent claim 84, and because these claims recite additional subject matter to further define the instant invention.

Dependent Claim 97

Applicant submits the Examiner again did not properly address the features of claim 97, in that the Examiner failed to address each of the features of claim 97. That is, while claim 97 recites, *inter alia*, "...when a discharging current for the battery has reached a minimum low

level . . .,” in addressing claim 97, the Examiner failed to address the recited “discharging current.” Instead, the Examiner refers to “voltage.”

The Examiner is respectfully reminded of the guidance provided by MPEP § 707.07(f), which states:

In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application.

Additionally, the Examiner is respectfully reminded of the guidance provided by MPEP § 2143.03, which states:

All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Applicant respectfully submits the rejection of claim 97 is *per se* improper and the Examiner has failed to provide a complete action and a clear record, as discussed further below.

#### Claims 122 - 124 and 142

In addressing claims 122 - 124 and 142, the Examiner asserts the features recited in these claims would have been obvious under a rationale of optimization through routine experimentation. Applicant again submits, however, that the Examiner has failed to establish that the prior art recognizes such features as results effective variables.

MPEP §2144.05 states that, in regard to routine experimentation, only prior art recognized result-effective variables can be optimized for purposes of formulating an obviousness rejection. More specifically:

A particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977) (The claimed wastewater treatment device had a tank volume to contractor area of 0.12 gal./sq. ft. The prior art did not recognize that treatment capacity is a function of the tank volume to contractor ratio, and therefore the parameter optimized was not recognized in the art to be a result- effective variable). See also *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) (prior art suggested proportional balancing to achieve desired results in the formation of an alloy).

(MPEP §2144.05) [emphasis added]

Applicant respectfully submits, however, that the Examiner has failed to establish that the prior art recognizes the features recited in claims 122 - 124 and 142 are result-effective variables. As such, Applicant submits the rejections of claims 122 - 124 and 142 are *per se* improper.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 84, 85, 88, 89, 94 - 97, 101 - 111, 118 - 126, and indicate claims 84, 85, 88, 89, 94 - 97, 101 - 111, 118 - 126 are allowable.

## 2. Over KOGA in view of SAKAKIBARA, IWAIZONO and PFEIFER

Applicant traverses the rejection of claims 86, 87 and 91 - 93 under 35 U.S.C. § 103(a) as being unpatentable over KOGA in view of SAKAKIBARA and IWAIZONO, and further in view of U.S. Patent No. 6,087,815 to Pfeifer et al. [hereinafter “PFEIFER”]. The rejection is respectfully traversed.

Applicant respectfully submits that claims 86, 87 and 91 - 93 depend from allowable independent claim 84, and are allowable at least based upon the allowability of independent claim 84, and further because these claims recite additional subject matter to further define the instant invention.

Applicant notes that PFEIFER has not been alleged to cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84; rather, this document has been cited to address features presented in dependent claims. Moreover, Applicant submits that PFEIFER does not cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84. For example, PFEIFER does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage. Instead, PFEIFER discusses protection against voltage fluctuations and preventing an overheating condition. Applicant submits PFEIFER does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage. As such, Applicant submits that no proper combination of KOGA, SAKAKIBARA, IWAIZONO and PFEIFER teaches or suggests each of the features of the present invention, and that KOGA in view of SAKAKIBARA, IWAIZONO and PFEIFER does not render the present invention unpatentable.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 86, 87 and 91 – 93, and indicate claims 86, 87 and 91 – 93 are allowable.

### 3. Over KOGA in view of SAKAKIBARA, IWAIZONO and TAKANO

Applicant traverses the rejection of claim 90 under 35 U.S.C. § 103(a) as being unpatentable over KOGA in view of SAKAKIBARA and IWAIZONO, and further in view of

U.S. Patent Publication No. 2003/0096158 to Takano et al. [hereinafter TAKANO]. The rejection is respectfully traversed.

Applicant respectfully submits that claim 90 depends from allowable independent claim 84, and is allowable at least based upon the allowability of independent claim 84, and further because this claim recites additional subject matter to further define the instant invention.

Applicant notes that TAKANO has not been alleged to cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84; rather, this document has been cited to address features presented in a dependent claim. Moreover, Applicant submits that TAKANO does not cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84. TAKANO is directed to a battery pack and cordless power tool. Applicant submits, however, that TAKANO does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage. TAKANO teaches an alerting means for indicating to a user that the battery is in a charge-need condition. The alerting means includes a switching unit, which is operable to reduce current to produce an observable condition (e.g., a slowed rotation of the power tool). As such, Applicant submits that no proper combination of KOGA, SAKAKIBARA, IWAIZONO and TAKANO teaches or suggests each of the features of the present invention, and that KOGA in view of SAKAKIBARA, IWAIZONO and TAKANO does not render the present invention unpatentable.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claim 90, and indicate claim 90 is allowable.

#### 4. Over KOGA in view of SAKAKIBARA, IWAIZONO and KOPERA

Applicant traverses the rejection of claims 112 - 117 under 35 U.S.C. § 103(a) as being unpatentable over KOGA in view of SAKAKIBARA, IWAIZONO<sup>2</sup>, and further in view of U.S. Patent No. 5,808,469 to Kopera<sup>3</sup> [hereinafter “KOPERA”]. The rejection is respectfully traversed.

Applicant respectfully submits that claims 112 - 117 depend from allowable independent claim 84, and are allowable at least based upon the allowability of independent claim 84, and further because these claims recite additional subject matter to further define the instant invention.

Applicant notes that KOPERA has not been alleged to cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84; rather, this document has been cited to address features presented in dependent claims. Moreover, Applicant submits that KOPERA does not cure the deficiencies of KOGA in view of SAKAKIBARA, IWAIZONO in reference to currently presented claim 84. KOPERA is directed to a battery monitor for monitoring the voltage and temperature of batteries of an electric vehicle. However, Applicant submits that KOPERA does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage, as recited in claim 84.

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<sup>2</sup> Applicant notes that the statement of rejection excludes IWAIZONO. However, as claims 112 - 117 depend from claim 111, which was rejected over KOGA, SAKAKIBARA and IWAIZONO, Applicant submits the rejection of claims 112 - 117 are also based on IWAIZONO. Accordingly, Applicant assumes the Examiner intended to indicate that the rejection of claims 112 - 117 is also based on IWAIZONO, and has addressed the Office Action accordingly.

<sup>3</sup> Applicant notes that the Office Action indicates that claims 112 - 117 were rejected over KOGA in view of SAKAKIBARA, and further in view of U.S. Patent No. 5,808,469 to Rouillard et al. Applicant again notes, however, that U.S. Patent No. 5,808,469, which is the document listed in the Form-892, is to Kopera and not to Rouillard et al. As such, Applicant assumes the Examiner intended to apply Kopera (i.e., U.S. Patent No. 5,808,469) and not Rouillard et al., and have addressed the Office Action accordingly.

As such, Applicant submits that no proper combination of KOGA, SAKAKIBARA, IWAIZONO and KOPERA teaches or suggests each of the features of the present invention, and that KOGA in view of SAKAKIBARA, IWAIZONO and KOPERA does not render the present invention unpatentable.

Claims 113 - 115

In addressing claims 113 - 115, the Examiner again asserts the features recited in these claims would have been obvious under a rationale of optimization through routine experimentation. Applicant submits, however, that the Examiner has failed to establish that the prior art recognizes such features as results effective variables.

As noted above, MPEP §2144.05 states that, in regard to routine experimentation, only prior art recognized result-effective variables can be optimized for purposes of formulating an obviousness rejection. Applicant respectfully submits, however, that the Examiner has failed to establish that the prior art recognizes the features recited in claims 113 - 115 are result-effective variables. As such, Applicant submits the rejection of claims 113 - 115 is *per se* improper.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 112 - 117, and indicate claims 112 - 117 are allowable.

5. Over KOGA in view of SAKAKIBARA, IWAIZONO and CHAMBERLAIN

Applicant traverses the rejection of claims 98 - 100 under 35 U.S.C. § 103(a) as being unpatentable over KOGA in view of SAKAKIBARA and IWAIZONO, and further in view of U.S. Patent No. 5,466,545 to Chamberlain et al. [hereinafter “CHAMBERLAIN”]. The rejection is respectfully traversed.

Applicant respectfully submits that claims 98 - 100 depend from allowable independent claim 84, and are allowable at least based upon the allowability of independent claim 84, and further because these claims recite additional subject matter to further define the instant invention.

Applicant notes that CHAMBERLAIN has not been alleged to cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84; rather, this document has been cited to address features presented in dependent claims. Moreover, Applicant submits that CHAMBERLAIN does not cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84. For example, Applicant submits that CHAMBERLAIN does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage, as recited in claim 84. CHAMBERLAIN is directed to a shock-resistant battery pack, and is completely silent with regard to "discharge" and "discharging." Applicant submits that no proper combination of KOGA, SAKAKIBARA, IWAIZONO and CHAMBERLAIN teaches or suggests each of the features of the present invention, and that KOGA in view of SAKAKIBARA, IWAIZONO and CHAMBERLAIN does not render the present invention unpatentable.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 98 - 100, and indicate claims 98 - 100 are allowable.

## 6. Over KOGA in view of SAKAKIBARA, IWAIZONO and BROTTO

Applicant traverses the rejection of claims 135 - 137 under 35 U.S.C. § 103(a) as being unpatentable over KOGA in view of SAKAKIBARA and IWAIZONO, and further in view of U.S. Patent No. 6,218,806 to Brotto et al.<sup>4</sup> [hereinafter “BROTTO”]. The rejection is respectfully traversed.

Applicant respectfully submits that claims 135 - 137 depend from allowable independent claim 84, and are allowable at least based upon the allowability of independent claim 84, and further because these claims recite additional subject matter to further define the instant invention.

Applicant notes that BROTTO has not been alleged to cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84; rather, this document has been cited to address features presented in dependent claims. Moreover, Applicant submits that BROTTO does not cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84. For example, Applicant submits that BROTTO does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage, as recited in claim 84. Applicant notes BROTTO is completely silent with regard to “discharge” and “discharging.” As such, Applicant submits that no proper combination of KOGA, SAKAKIBARA, IWAIZONO and BROTTO teaches or suggests each of the features of the present invention, and that KOGA in view of SAKAKIBARA, IWAIZONO and BROTTO does not render the present invention unpatentable.

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<sup>4</sup> Applicant notes the Examiner identified this document as “Smith et al.”  
{P29780 01162526.DOC}

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claims 135 - 137, and indicate claims 135 - 137 are allowable.

7. Over KOGA in view of SAKAKIBARA, IWAIZONO, BROTTO and SANDERS

Applicant traverses the rejection of claim 138 under 35 U.S.C. § 103(a) as being unpatentable over KOGA in view of SAKAKIBARA, IWAIZONO<sup>5</sup> and BROTTO, and further in view of U.S. Patent Publication No. 2004/0027094 to Sanders et al.<sup>6</sup> [hereinafter “SANDERS”]. The rejection is respectfully traversed.

Applicant respectfully submits that claim 138 depends from allowable independent claim 84, and is allowable at least based upon the allowability of independent claim 84, and further because this claim recites additional subject matter to further define the instant invention.

Applicant notes that SANDERS has not been alleged to cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84; rather, this document has been cited to address features presented in dependent claims. Moreover, Applicant submits that SANDERS does not cure the deficiencies of KOGA in view of SAKAKIBARA and IWAIZONO in reference to currently presented claim 84. SANDERS is directed to a battery monitoring network, which can be implemented on existing standard open network protocols. For example, Applicant submits that SANDERS does not teach or suggest at least one of the at least one electric or electronic module and the cutoff device are operable to interrupt the discharging phase to turn off the tool, when at least one cell of the battery reaches a threshold minimum voltage, as recited in claim 84. As such, Applicant submits that no proper

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<sup>5</sup> Applicant notes that the statement of rejection excludes IWAIZONO. However, as claim 138 depends from claim 135, which was rejected over KOGA, SAKAKIBARA, IWAIZONO and BROTTO, Applicant submits the rejection of claim 138 is also based on IWAIZONO. Accordingly, Applicant assumes the Examiner intended to indicate that the rejection of claim 138 is also based on IWAIZONO, and has addressed the Office Action accordingly.

<sup>6</sup> Applicant respectfully notes the Examiner misidentified this document as “Smith et al.”  
{P29780 01162526.DOC}

combination of KOGA, SAKAKIBARA, IWAIZONO, BROTTO and SANDERS teaches or suggests each of the features of the present invention, and that KOGA in view of SAKAKIBARA, IWAIZONO, BROTTO and SANDERS does not render the present invention unpatentable.

Accordingly, for at least these reasons, Applicant respectfully requests the Examiner withdraw the rejection of claim 138, and indicate claim 138 is allowable.

***Complete Action Not Provided***

Applicant respectfully submits that the Examiner did not address each of the features of claim 97. Additionally, Applicant submits the Examiner did not properly address the features of claims 113 - 115, 122 - 124 and 142, as noted above, as the Examiner failed to establish that the prior art recognizes the features of claims 113 - 115, 122 - 124 and 142 as result-effect variables. Thus, Applicant respectfully submits that the Examiner has not set forth a complete action or a clear record.

For at least these reasons, Applicant submits that a clear issue was not developed between the Examiner and Applicant. More specifically, MPEP §706 states:

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection.

Additionally, MPEP 706.07(a) notes:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a

new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). ...

Furthermore, a second or any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17 (p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

Accordingly, Applicant respectfully requests that the Examiner properly address the untreated features of the claimed invention, such that a clear issue is developed between the Examiner and Applicant. Moreover, Applicant submits that the next action, which should clarify the record, should not be a final action.

*Authorization to Charge Deposit Account*

The undersigned authorizes the charging of any necessary fees, including any extensions of time fees required to place the application in condition for allowance by Examiner's Amendment, to Deposit Account No. 19 - 0089 in order to maintain pendency of this application.

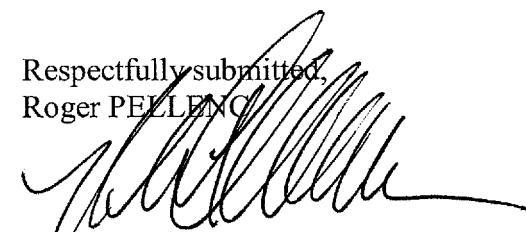
**CONCLUSION**

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicant's invention, as recited in claims 84 – 143. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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